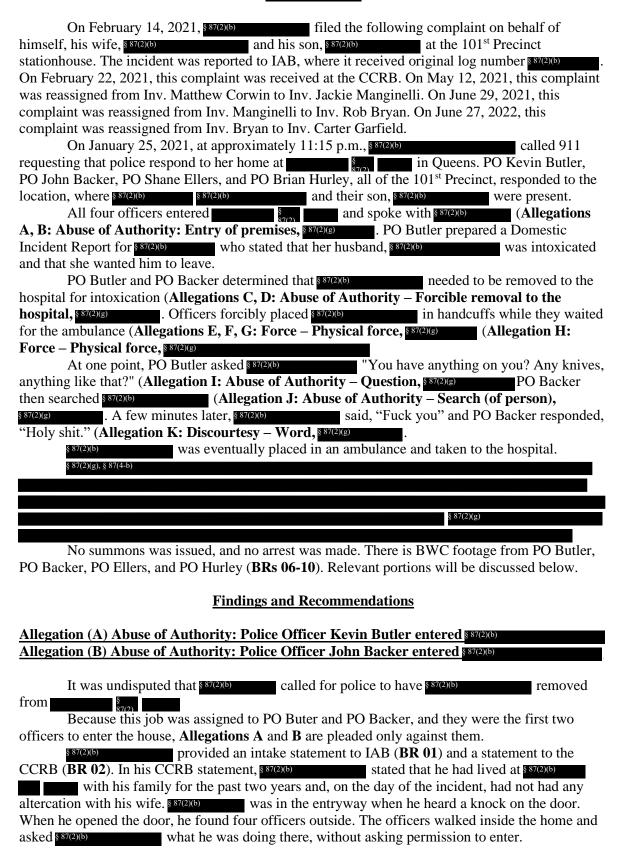
CCRB INVESTIGATIVE RECOMMENDATION

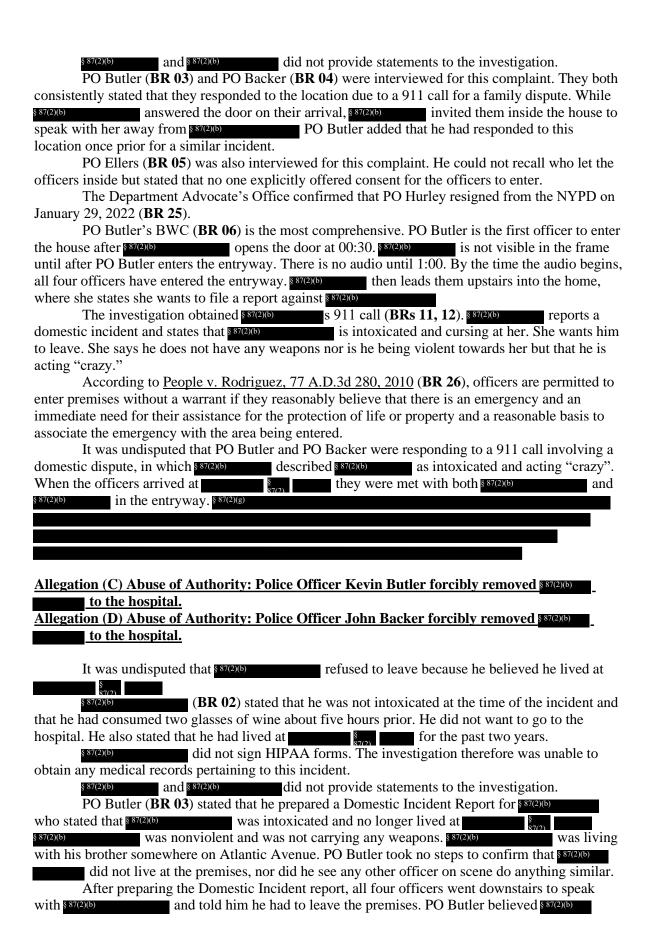
Investigator:		Team:	CCRB Case #:	✓ Force	✓ Discourt.	☐ U.S.
Carter Garfield		Squad #10	202101163	☑ Abuse	O.L.	✓ Injury
Incident Date(s)		Location of Incident:	•	Precinct:	18 Mo. SOL	EO SOL
Monday, 01/25/2021 11:15 PM		§ 87(2)(b)		101	7/25/2022	7/25/2022
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Tim	e Received at CC	RB
Sun, 02/14/2021 1:10 PM		Precinct	In-person	Mon, 02/	22/2021 11:40 AI	М
Complainant/Victim	Type	Home Addre	ess			
Subject Officer(s)	Shield	TaxID	Command			
1. POM Kevin Butler	06563	964411	101 PCT			
2. POM John Backer	04598	956405	101 PCT			
3. POM Shane Ellers	9231	960495	101 PCT			
4. POM Brian Hurley	10992	966111	101 PCT			
Officer(s)	Allegation	on		Inv	estigator Recor	nmendation
A.POM Kevin Butler	Abuse: P § 87(2)(b)	Police Officer Kevin But	eler entered			
B.POM John Backer	Abuse: P	Police Officer John Back	ter entered			
C.POM Kevin Butler	Abuse: P § 87(2)(b)	Police Officer Kevin But to the hospital		d		
D.POM John Backer	Abuse: P § 87(2)(b)	Police Officer John Back to the hospital				
E.POM Kevin Butler	Force: Poagainst	olice Officer Kevin Butl	er used physical for	ce		
F.POM John Backer	Force: Poagainst § §	olice Officer John Backe	er used physical forc	ce		
G.POM Shane Ellers	Force: Poagainst St	olice Officer Shane Elle 87(2)(b)	rs used physical forc	ce		
H.POM Brian Hurley	Force: Poagainst	olice Officer Brian Hurl 87(2)(b)	ey used physical for	ce		
I.POM Kevin Butler	Abuse: P	Police Officer Kevin But	eler questioned § 87(2)(b	b)		
J.POM John Backer	Abuse: P	Police Officer John Back	ter searched § 87(2)(b)			
K.POM John Backer		esy: Police Officer John cously to §87(2)(b)	Backer spoke			
§ 87(2)(g), § 87(4-b)			.			
§ 87(2)(g), § 87(4-b)						

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

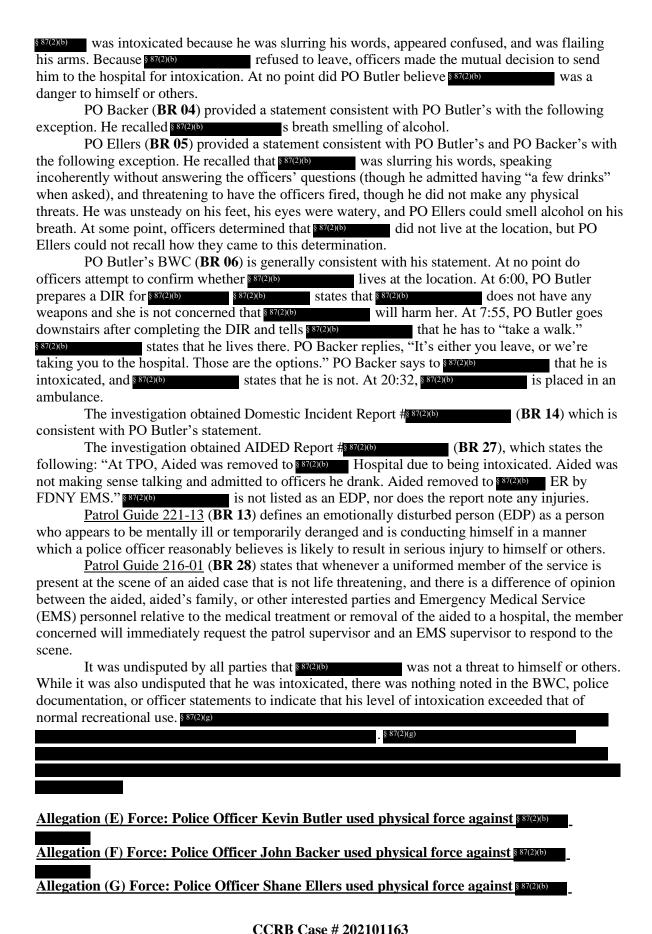
Case Summary



CCRB Case # 202101163



CCRB Case # 202101163



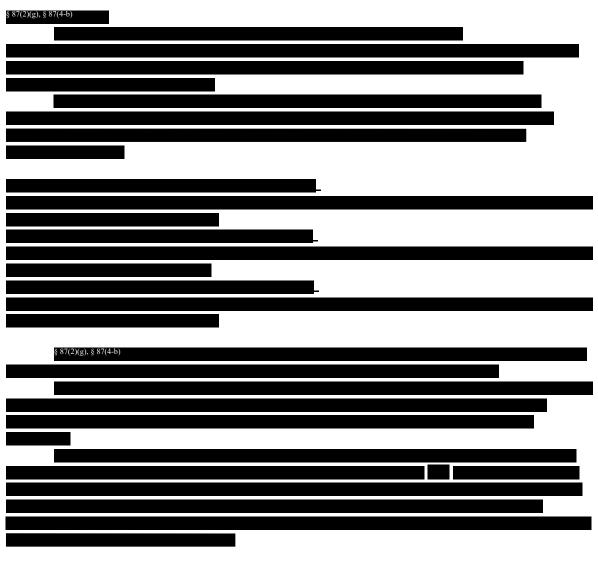
CCRB CTS – Confidential Page 3

Allegation (H) Force: Police Officer Brian Hurley used physical force against \$87(2)(6)

consistently stated that officers broke his arm when they handcuffed him
(BRs 01, 02). In his IAB statement, the interviewing lieutenant stated that \$87(2)(6) had
his arm in a sling when he came to the stationhouse. In his phone statement, he said officers pushed
him against the wall and "wrenched" his arms behind his back so aggressively that his elbow felt
like it had been dislocated.
and \$87(2)(b) and \$87(2)(b) did not provide statements to the investigation.
PO Butler (BR 03), PO Backer (BR 04), and PO Ellers (BR 05) consistently stated that
resisted being placed in handcuffs by tensing his arms and that it took all four
officers to handcuff him. PO Butler added that \$87(2)(b) was screaming in pain for the rest
of the incident.
All four officer's BWC videos capture \$87(2)(b) being placed in handcuffs (BRs
06-09). However, the lighting makes it difficult to see exactly what occurs. In PO Backer's BWC
(BR 07), at 11:10, PO Butler tells \$87(2)(b) to put his hands behind his back. Handcuffs
are heard clicking, but not seen on video. At 11:35, \$87(2)(b) screams, and PO Butler tells
him to stop. At 11:45, PO Butler tells \$87(2)(b) to put his hands behind his back. \$87(2)(b)
says, "You broke my fucking hand." He continues screaming for the rest of the incident.
Because \$87(2)(b) did not sign HIPAA forms, the investigation was unable to
confirm the extent of his injuries.
The investigation obtained AIDED Report #\$87(2)(6) (BR 27), which states the
following: "At TPO, Aided was removed to \$87(2)(b) Hospital due to being intoxicated. Aided was
not making sense talking and admitted to officers he drank. Aided removed to \$87(2)(b) ER by
FDNY EMS." \$87(2)(6) is not listed as an EDP, nor does the report note any injuries.
No TRI was prepared for this incident (BR 14)-
§ 87(2)(g)
• • • • • • • • • • • • • • • • • • •
§ 87(2)(g)
Allegation (I) Abuse of Authority: Police Officer Kevin Butler questioned 887(2)(b)
Allegation (J) Abuse of Authority: Police Officer John Backer searched [87(2)(b)]
inequation (b) House of Huthority. Tonce officer donn Bucker scarcined
While not alleged by \$87(2)(b) in PO Butler's BWC (BR 06), at 15:25, PO Butler
asks \$87(2)(b) "You don't have anything on you, any knives or anything, right?" In PO
Backer's BWC (BR 07), at 17:50, PO Backer reaches his hand into \$87(2)(6)
without any preliminary frisk. He tells him that he is making sure that he does not have any
weapons on him. At no point does PO Backer or any officer request consent to search \$87(2)(6)
before PO Backer does so.
PO Butler (BR 03) had no independent recollection of asking \$87(2)(b) any
pointed questions but stated that at no point did he suspect that \$87(2)(b) had a weapon on
his person. He asked if \$87(2)(b) had any knives on him for safety purposes.
PO Backer (BR 04) had no independent recollection of searching \$87(2)(b) He
stated that it was procedure for him to search \$87(2)(b) He added that whenever a civilian
is detained and placed in handcuffs – for a hospital removal, arrest, anything – he searches the

civilian for safety purposes. He did not make any physical observations of \$87(2)(6)
person that suggested that \$87(2)(b) had any weapons on him (such as any bulges) nor did
he hear \$87(2)(b) make any statements that suggested that he had a weapon on him.
The investigation obtained Domestic Incident Report 887(2)(b) (BR 14) which is
consistent with PO Butler's statement. The DIR does not list any weapons used or any offense
committed by \$87(2)(b)
The investigation obtained \$87(2)(6) s 911 call (BRs 11, 12). \$87(2)(6) states that
is intoxicated and cursing at her. She wants him to leave. She says he does not
have any weapons or that he is being violent towards her.
According to People v. De Bour, 40 N.Y.2d 210 (BR 15) officers may ask an accusatory
question if they have founded suspicion that criminal activity is present. An officer can search an
individual if the officer has probable cause to believe that the individual has committed a crime.
Neither PO Butler nor PO Backer thought that \$87(2)(b) had committed any crime.
They both stated that they made no observations that suggested was carrying a was carrying a
weapon, did not hear \$87(2)(6) make any threatening statements, and at no point
considered him to be a threat to officers. § 87(2)(g)
Allered and (IV) Discount and Delice Office on Island Design and allered to the property of th
Allegation (K) Discourtesy: Police Officer John Backer spoke discourteously to 887(2)(6)
WIL'IL (11 11 11 11 11 11 11 11 11 11 11 11 11 11
While not alleged by \$87(2)(b) at 18:37, \$87(2)(b) says, "Fuck you"
while \$87(2)(b) searches his pockets. PO Backer responds, "Holy shit." \$87(2)(b)
is in handcuffs and standing outside with all four officers when this occurs.
and \$87(2)(b) and did not provide statements to the investigation.
PO Backer (BR 04) had no independent recollection of using any discourteous language
during this incident. After rewatching his BWC, he stated that he used the word "shit" because of a
bad habit. He stated he had no experience using profanity as a de-escalation technique. He
described the entire situation as "a bit stressful," though also stated that \$87(2)(b) never
threatened the officers with violence.
Patrol Guide Procedure 200-02 (BR 18) states that officers are committed to treating every
citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a
higher standard of integrity than is generally expected of others.
In <u>DAO-DCT Case Number: 2017-17276</u> (BR 19) the court held that language which
would ordinarily be inappropriate in dealing with civilians may be excused in the course of a
violent and stressful confrontation.
When PO Backer used the phrase "holy shit," \$87(2)(b) was in handcuffs and was
outnumbered by officers four-to-one. Per officer statements, none of the officers considered him a
threat. § 87(2)(g)
§ 87(2)(g), § 87(4-b)

CCRB Case # 202101163
CCRB CTS – Confidential



Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which \$87(2)(6) has been a party (**BR 20**).
- This is the first CCRB complaint to which \$57(2)(6) has been a party (BR 29).
- This is the first CCRB complaint to which \$87(2)(6) has been a party (**BR 30**).
- PO Buter has been a member of service for four years and has been a subject of two CCRB complaints and four allegations, two of which were substantiated.
 - § 87(2)(g)
- PO Backer has been a member of service for eight years and has been a subject in three CCRB complaints and five allegations, one of which was substantiated.
 - o 202003308 involved a discourtesy allegation that was substantiated. The Board recommended Command Discipline A and the NYPD imposed no penalty.
- PO Ellers has been a member of service for six years and has been a subject of one CCRB complaint and two allegations, neither of which were substantiated.
- PO Hurley, who resigned from the NYPD on January 29, 2022, had been a member of service for three years.

Mediation, Civil, and Criminal Histories

- This complaint was unsuitable for mediation.
- On September 26, 2022, a FOIL request for any Notice of Claim regarding this incident was filed with the Office of the Comptroller and will be added to the case file upon receipt (**BR 21**).

3 07(2)(0)			
Squad:	10		
Investigator: _	Carter Garfield	Inv. Garfield	10/19/2022
_	Signature	Print Title & Name	Date
Sanad Laadam	Maura R. Roche	IM Maura R. Roche	10/20/2022
Squad Leader: _	Signature	Print Title & Name	Date
	Signature	Time Tide & Ivaine	Dute
Reviewer: _			
	Signature	Print Title & Name	Date